

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

ELIZABETH ALICE DOVE, as Personal)
Representative of the Estate of GUS DOVE,)
Plaintiff,)
v.) C.A. No. 17-056 (MN) (SRF)
BOEING COMPANY, et al.)
Defendants.)

ORDER ADOPTING REPORT AND RECOMMENDATION

WHEREAS, on January 30, 2019, Magistrate Judge Fallon issued a Report and Recommendation (“the Report”) (D.I. 185) in this action, recommending that the Court grant the unopposed motions for summary judgment of Defendants Pneumo Abex, LLC, BorgWarner Morse TEC LLC as successor-by-merger to Borg-Warner Corporation, and Ford Motor Company;

WHEREAS, the Report further recommends that the Court grant Union Carbide Corporation’s unopposed motion to dismiss pursuant to Rule 41(b);¹

WHEREAS, no party filed objections to the Report pursuant to 72(b)(2) of the Federal Rules of Civil Procedure in the prescribed period, and the Court finding no clear error on the face of the record;

THEREFORE, IT IS HEREBY ORDERED this 14th day of February 2019 that the Report and Recommendation is ADOPTED-IN-PART.

¹ The Report also recommends that the Court grant Union Carbide Corporation’s unopposed motion for summary judgment. The Report notes that Union Carbide Corporation did not file an opening brief in support of its motion for summary judgment (D.I. 147) and, therefore, “the court [could not] assess the merits of Union Carbide’s motion for summary judgment.” (D.I. 185 at 1). Because the Court dismisses this action pursuant to Rule 41(b), however, it does not address the recommendation regarding summary judgement.

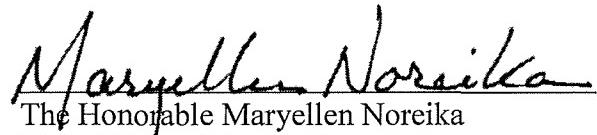
Defendant Pneumo Abex, LLC's motion for summary judgment is GRANTED (D.I. 148).

Defendant BorgWarner Morse TEC LLC as successor-by-merger to Borg-Warner Corporation's motion for summary judgment is GRANTED (D.I. 149).

Defendant Ford Motor Company's motion for summary judgment is GRANTED (D.I. 155).

Defendant Union Carbide Corporation's motion to dismiss is GRANTED pursuant to Rule 41(b) (D.I. 183). All claims and cross-claims against Union Carbide Corporation are dismissed.

The Clerk of Court is HEREBY DIRECTED to enter JUDGMENT in favor of Defendants Pneumo Abex, LLC, BorgWarner Morse TEC LLC as successor-by-merger to Borg-Warner Corporation, and Ford Motor Company and against Plaintiff Elizabeth Alice Dove, as Personal Representative of the Estate of Gus Dove.


The Honorable Maryellen Noreika
United States District Court Judge